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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,801	12/19/2001	Yung Hsiang Huang	17,623	7835
23556	7590	04/08/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,801

Applicant(s)

HUANG ET AL.

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12-14,22,24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,12-14,22,24,25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election without traverse of Group I (claims 1-10, 12-14, 22, 24 and 25) in the reply filed on 2/4/2005 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, 12-14, 22, 24 and 25 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Julius (5,542,567) in view of Spruyt et al. (3,784,056; hereinafter Spruyt'056) and Huang et al. (6,269,970; hereinafter Huang'970). Julius discloses a package for storing and dispensing moist tissues/wet wipes in a pop-up format comprising a container base (36) connected with a container top (70), a pop-up style dispensing partition (62) having a dispensing orifice (94, 99) positioned between the container base and the container top and a group of moist tissue/wet wipes positioned in the container base between the container base and the pop-up style dispensing partition. Each wipe in the group of wet wipes having a first visibility index, the container top having a second visibility index and the pop-up style dispensing partition having a third visibility index. The wipes usually having a white color and the container base usually made from opaque plastic material. Since the color of the wipes is different than the color of the container base, therefore, the first visibility index is different than the third visibility index. Julius also discloses the other claimed limitations except for when the container top being closed the wipe from the group of wipes is visibly indicated at the container top as being in-position or

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not-in-position for pop-up dispensing as soon as the container top is next opened and the container top comprises a visibility indication of at least 1 and no more than 4.

Spruyt'056 teaches a package (10) for storing and dispensing wet wipes comprising a container base (12) connected with a container top (14) and the container top made from transparent material to permit the user to view into the package while removing a wet wiper (column 3, lines 16-18). Huang'970 shows a package (20) for storing and dispensing wet wipes comprising a container base (22) connected with a container top (24) and the container top made from transparent or translucent material to permit the user to view into the package to determine the wipes remaining in the package (column 3, lines 40-46). It would have been obvious to one having ordinary skill in the art in view of Spruyt'056 and Huang'970 to modify the package of Julius so the container top is made from a transparent or translucent material to allow the user to view the wipes within the container top prior of removing the container top to dispensing the wipe. The container top of Julius as modified made from transparent or translucent material which is considered equivalent to the container top comprises a visibility indication of at least 1 and no more than 4 as claimed. Regarding the clarity of the visibility index, the selection of the specific clarity of the visibility index of either the first, second or third visibility index of the package would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific visibility index as claimed solves any particular problem or yields any unexpected results.

Response to Arguments

Applicant's arguments filed on 4/15/2004 and 2/4/2005 have been fully considered but they are not deemed to be persuasive.

Applicant argues "Julius which sets forth ... thus making a need for the present invention irrelevant" and Julius teaches away from any such modification in the remarks are noted. They are not persuasive because the container top of Julius as modified comprises a transparent or translucent material as taught by Spruyt'056 and Huang'970 as set forth above and when the container top is in closed position and the wipe is in-position indicates that at least there is wipe remained in the container or the wipe is not in-position indicates that there is no wipe remained in the container or the container is emptied.

Applicant's arguments with respect to Spruyt et al. and Huang et al. in the remarks are noted. They are not persuasive because Spruyt et al. and Huang et al. are relied upon for nothing than the material for forming the container.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Marilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
April 7, 2005

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a stylized flourish at the end.

Luan K. Bui
Primary Examiner